

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 02 2005

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LANE EDWIN DICK,

Defendant - Appellant.

No. 04-30008

D.C. No. CR-02-30020-MRH

ORDER and MEMORANDUM*

Appeal from the United States District Court
for the District of Oregon
Michael R. Hogan, District Judge, Presiding

Submitted October 14, 2004**

Before: KLEINFELD, TASHIMA, and GOULD, Circuit Judges.

The panel has voted to grant the petition for panel rehearing.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R. App. P. 35.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

The petition for panel rehearing is granted, and the petition for rehearing en banc is denied.

The Memorandum Disposition filed October 25, 2004, is WITHDRAWN and replaced with the following Memorandum Disposition:

Lane Edwin Dick appeals his 87-month sentence imposed following his guilty plea to conspiracy to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and 846. We have jurisdiction pursuant to 28 U.S.C. § 1291.

We remand the sentence for further proceedings consistent with *United States v. Ameline*, 409 F.3d 1073, 1084-85 (9th Cir. 2005) (en banc).

REMANDED.